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EXAMINER

NGUYEN, HAIDUNG D

ART UNIT

PAPER NUMBER

1796

NOTIFICATION DATE

DELIVERY MODE

05/07/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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ADVISORY ACTION

1. The request for reconsideration has been considered but does not place the application in condition for allowance because: the rejections under 35 U.S.C 103(a) are maintained for the reasons of record.

Response to Arguments

2. Applicant's remarks/arguments filed 4/26/2010 have been fully considered but they are not persuasive.

Applicant states that the finality of the Office Action dated November 25, 2009 should be withdrawn because the Examiner has failed to consider the patentability arguments presented in the amendment filed July 27, 2009. The Examiner respectfully submits that the final action made on November 25, 2009 is appropriate and meet the requirements. Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c). MPEP 706.07(a). In this case, the new ground of rejection was necessitated by applicant's amendment of the claims, thus making the second action final is proper.

Applicant also states that the Examiner did not address the Applicant's arguments regarding previous rejection made in the earlier Office Action dated March 27, 2009. However, the Examiner respectfully submits that Applicant's arguments were dismissed as moot since applicant's amendment of the claims by adding new limitations

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to the claims has changed the scope of the claim, subsequently necessitated a new ground of rejection.

With regard to Applicant's argument over the rejection over McCormick in view of Saida '746 or Saida '328, the Examiner respectfully submits that the rejections are maintained for the reasons of record. Applicant argues that McCormick does teach polyisothianaphthenes as a conducting self-doped polymers but does not teach in detail and use in its Examples and that polyanilines are preferred. However, the use of patents as references is not limited to what the patentees describe as their own inventions or to the problems with which they are concerned, they are relevant for all they contain. See *In re Heck*, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) and *Merck & Co. v. Biocraft Laboratories*, 874 F.2d 804, 10 USPQ2d 1843 (Fed. Cir.). In this case, McCormick does teach polyisothianaphthenes as a conducting self-doped polymers for use in the anode buffer layer (col 5, ln 64), it does not matter that the polyisothianaphthenes is not disclosed as being preferred, the reference still teaches the polyisothianaphthenes.

Applicant further argues that there is no motivation or suggestion to combine the polymer of Saida '746 or Saida '328 with the anode buffer layer of McCormick. The Examiner respectfully disagrees. McCormick discloses an organic light emitting device (col 1, ln 15-16) comprising at least one light emitting layer between an anode and a cathode, wherein the light emitting layer adjacent to the anode is an anode buffer layer (col 1, ln 36-41 and figure 2, layer 15). McCormick discloses the anode buffer layer comprising an intrinsically conducting polymer (col 3, ln 2-3) including

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polyisothianaphthenes (col 5, ln 64). McCormick does not disclose the polyisothianaphthenes comprising a monomer unit represented by formula (1) of the present invention. However, Saida '746 and Saida '328 disclose a self-doping conductive polyisothianaphthenes comprising a monomer unit represented by formula (3) and formula (1), respectively, which are read on the claimed formula, that can use as conductive materials for electronic display devices and electrodes (Saida '746, para 0047; Saida '328, para 0061). Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to employ the self-doping conductive polyisothianaphthenes taught by Saida '746 or Saida '328 as the polyisothianaphthenes of McCormick to make the organic light emitting device because Saida teaches that such polymers, which are excellent in stability, conductivity and mechanical properties, can be used as conducting materials for manufacturing electronic display devices or electrodes.

Applicant further argues that neither Saida '746 nor Saida '328 provides any teaching or guidance on using the polymer of formula (3) or formula (1), respectively, in the anode buffer layer nor do they provides any guidance on improving the mechanical properties such as flexibility and smoothness, the maximum luminescence, maximum external quantum efficiency or luminescence half-life properties as demonstrated in the present application. However, it is not necessary in order to establish a prima facie case of obviousness that there be a suggestion in or expectation from the prior art that the claimed device will have the same or similar properties as those newly discovered by applicant); See *In re Lintner*, 458 F.2d 1013, 1018, 173 USPQ 560, 562 (CCPA

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1972) . The fact that applicant uses polyisothianaphthenes of formula (1) for the such purposes does not alter the conclusion that its use in the prior art composition or device would be *prima facie* obvious from the purpose disclosed in the references.

With regard to the unexpected superior results, since the rejection was based on the *prima facie* case for obviousness over McCormick in view of Saida '746 or Saida '328, the determination of patentability must be based on consideration of the entire record, and evidence taken as a whole should be weighed against the evidence supporting the *prima facie* case. See MPEP 716.01(d) and 716.02(c). In this case, there is a strong motivation to combine the two references sufficient to outweigh the alleged unexpected results. McCormick teaches an anode buffer layer comprising self-doping conductive polyisothianaphthenes whereas Saida '746 and Saida '328 teach self-doping conductive polyisothianaphthenes presented by formula (3) and (1), respectively, which are identical or substantially identical to the polymer of present invention. Saida '746 and Saida '328 teach these self-doping polymers are excellent in stability, conductivity and mechanical properties and can use as conductive coating materials for electrodes and electronics display devices. Therefore, one of ordinary skill in the art at the time the invention was made would have strong motivation to employed self-doping conductive polyisothianaphthenes taught by Saida '746 or Saida '328 as the polyisothianaphthenes of McCormick to make the organic light emitting device with a reasonable expectation of success.

Accordingly, rejection of claims 9-13 are maintained for the reasons of record.

Examiner Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haidung D. Nguyen whose telephone number is (571)270-5455. The examiner can normally be reached on M-Th: 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Harold Y Pyon/
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Unit 1796

/HN/
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